

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

MARK MANZELLA,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 4:07CV1528 CEJ
	)	
DAVE DORMIRE,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on petitioner's motion to alter or amend judgment. Petitioner has also submitted a motion to amend by interlineation. The Court will deny both motions.

The Court denied petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on August 2, 2010. The Court denied the majority of the grounds presented in the petition as procedurally barred. On August 12, 2010, petitioner moved the Court to alter or amend its judgment, arguing that the Court should have excused the procedural bar because he is actually innocent of the crimes.

"To be credible, [a claim of actual innocence] requires petitioner to support his allegations of constitutional error with new reliable evidence—whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence—that was not presented at trial." Schlup v. Delo, 513 U.S. 298, 324 (1995). Petitioner has

not presented the Court with any new reliable evidence of actual innocence. Rather, petitioner merely rehashes the evidence that was put forth at trial. As a result, petitioner's actual innocence claim fails, and the Court will not excuse the procedural bar.


Accordingly,

**IT IS HEREBY ORDERED** that petitioner's motion to alter or amend judgment [Doc. #27] is **denied**.

**IT IS FURTHER ORDERED** that petitioner's motion to amend by interlineation [Doc. #28] is **denied as moot**.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability.

Dated this 21st day of October, 2010.

  
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CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE